

OCT 18 2005**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

FRANK RALPH LA PENA,**Petitioner - Appellant,****v.****GEORGE GRIGAS; et al.,****Respondents - Appellees.**

No. 04-16486**D.C. No. CV-00-00960-PMP****MEMORANDUM***

**Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding**

Submitted October 11, 2005**

Before: T.G. NELSON, WARDLAW, and TALLMAN, Circuit Judges.

Frank Ralph La Pena, a Nevada state prisoner, appeals the district court's July 7, 2004, order denying three motions. Because the district court's order was an interlocutory order not subject to immediate appellate review, and La Pena does

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

not contend that any applicable exception to the final judgment rule applies, we dismiss this for lack of jurisdiction. *See* 28 U.S.C. § 1291; *see also United States v. Austin*, 416 F.3d 1016, 1019 (9th Cir. 2005). La Pena's motion to proceed in forma pauperis is denied as moot.

DISMISSED.